

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

MICHAEL ADAMS,

Defendant.

ORDER

(S3) 15 Cr. 410 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

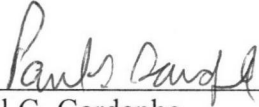
In anticipation of the November 15, 2019 sentencing in this case, Defendant and the Government jointly move for the dismissal of Count Three of (S3) Indictment 15 Cr. 410, which charges the Defendant with a violation of 18 U.S.C. § 924(c) arising out of a June 18, 2015 shooting of a store owner in Manhattan. Count Four of the (S3) Indictment -- which is premised on the same shooting -- charges a violation of 18 U.S.C. § 924(j)(1). The Defendant pled guilty to both counts on April 28, 2016. (Tr. (Dkt. No. 95)) The plea was accepted on the same day. (Apr. 28, 2016 order (Dkt. No. 90))

The parties contend that "Count Three is a lesser included offense of Count Four," and that accordingly the Double Jeopardy Clause requires that the Section 924(c) count be dismissed. See Govt. Nov. 13, 2019 letter. The Court agrees that the Section 924(c) count is a lesser included offense of the Section 924(j)(1) count. See United States v. Young, 561 Fed. App'x. 85, 93-94 (2d Cir. 2014) (summary order); United States v. Gonzalez, 841 F.3d 339, 358 (5th Cir. 2016); see also United States v. Medina, No. 13 Cr. 272 (PGG), 2014 WL 3057917, at

*5 (S.D.N.Y. July 3, 2014). Accordingly, Count Three of (S3) Indictment 15 Cr. 410 is hereby dismissed.

Dated: New York, New York
November 14, 2019

SO ORDERED.



Paul G. Gardephe
United States District Judge